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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,920	09/25/2003	Charles Dimitry Zayat		3870

39016 7590 12/15/2005

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EXAMINER

GATES, ERIC ANDREW

ART UNIT PAPER NUMBER

3722

DATE MAILED: 12/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Tata

Office Action Summary	Application No. 10/671,920	Applicant(s) ZAYAT ET AL.	
	Examiner Eric A. Gates	Art Unit 3722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) 1-4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 5-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Response to Amendment

1. This office action is in response to applicant's amendment filed on 17 November 2005.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 5-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Zayat (U.S. Patent 4,554,957).
3. Regarding claim 5, Zayat '957 discloses a rotary tool 10 for resurfacing two surfaces simultaneously, said surfaces including a generally flat major surface 18 and an adjacent overlying minor surface 20 perpendicularly oriented with respect to said major surface, said tool comprising: a motor driven shaft 34; a rotating blade holder 36 fixedly attached to said shaft, said holder carrying blades 40/42/44 which simultaneously engage said major and minor surfaces; a rigid guard housing 22 partially enclosing said holder; and means for moving 50/52 said housing with respect to said major and minor surfaces while said holder remains fixed to thereby effect adjustments of the depth of cut of said tool relative to said surfaces.
4. Regarding claim 6, Zayat '957 discloses wherein said means for moving 50/52 comprises first 68 and second 78/80 adjusting screws.

Art Unit: 3722

5. Regarding claim 7, Zayat '957 discloses wherein said housing 22 has two openings, a first opening (bottom) through which the blades extend to engage said major surface and a second opening (front) through which said blades extend to engage said minor surface, said first adjusting screw 68 operating to move the housing up and down with respect to said holder 36 and said major surface 18, the second adjusting screw 78/80 operating to move the housing toward and away from said minor surface 20.

6. Regarding claim 8, Zayat '957 discloses wherein said second adjusting screw 78/80 extends externally of said housing 22 and rides on said minor surface 20 during operation of the tool.

7. Regarding claim 9, Zayat '957 discloses the rotary tool 10 further including a support plate 58 fixedly mounted to said tool external to said housing 22, said first adjusting screw 68 operating when turned to move said housing toward or away from said plate and major surface 18 relative to said holder 36.

Response to Arguments

8. Applicant's arguments with respect to claims 5-9 have been considered but are moot in view of the new ground(s) of rejection. For this and the reasons supplied above, the grounds of rejection are deemed proper.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

Art Unit: 3722

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric A. Gates whose telephone number is 571-272-5498. The examiner can normally be reached on Monday-Thursday 7:45-5:15 & alt Fridays 7:45-4:15.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

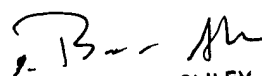
Art Unit: 3722

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



EAG
12 December 2005

Eric A. Gates
Patent Examiner
Art Unit 3722



BOYER D. ASHLEY
PRIMARY EXAMINER